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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,570	07/21/2004	David S. Bonalle	03292.101090.18	4569

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FITZPATRICK CELLA (AMEX)
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NEW YORK, NY 10112

EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3687

MAIL DATE	DELIVERY MODE
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04/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/710,570	Applicant(s) BONALLE ET AL.	
	Examiner Andrew Joseph Rudy	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-16 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 4, "a first enterprise data collection" does not have support from the descriptive portion of the specification. Further, it is not clear.

Claim 1, lines 4-5, "a first enterprise" does not have support from the descriptive portion of the specification. Further, it is not clear.

Claim 1, line 9, "a second enterprise data collection" does not have support from the descriptive portion of the specification. Further, it is not clear.

Claim 1, lines 9-10, "a second enterprise" does not have support from the descriptive portion of the specification. Further, it is not clear.

Claim 1, lines 15, "a transponder-reader" does not have support from the descriptive portion of the specification. Reader 104 does not clarify this lack of support. Thus, it is not clear.

Claim 1, line 18, “a fob” and “object database system” both are not adequately described from the descriptive portion of the specification and are not clear as to its meets and bounds.

Claims 5, 9 and 12 contain similar unclear language, e.g. “a first enterprise data collection,” “a second enterprise data collection” and “a fob,” are not descriptive and not clear.

Applicant’s January 8, 2009 REMARKS have been reviewed, but are not convincing. Applicant must distinctly point out where such “remedial terms in nature” are located from the descriptive portion of the specification in juxtaposition with the drawings. Applicant’s referral to paragraphs 37-39, 105 and 106 from the descriptive portion of Applicant’s specification is noted. Applicant has not clarified the claim language, e.g. Applicant has not provided what particularly is a fob and where such may be found from the descriptive portion of the specification and/or the drawing figures.

Again, it is noted that if Applicant is able to correct that noted above, a restriction requirement may be required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurta et al., US 6,317,721

Hurta discloses, e.g. Figs. 1-5 and related text a transponder system, e.g. col. 3, lines 30-50, a transaction device, e.g. col. 5, lines 49-57, and an activity application, e.g. vehicles traveling on lane 28. Hurta does not specifically disclose a second application comprising a common file structure, a fob and a first and second enterprise data collection.

Official Notice is taken that, as understood, a common file structure, a fob and a first and second enterprise data collection used in the database art has been common knowledge in the art. To have provided such for Hurta would have been obvious to one of ordinary skill in the art. Applicant's January 8, 2009 REMARKS have been reviewed, but are not convincing. Applicant has not addressed the deficiencies noted from the 35 USC 112 rejection noted above. As such, the metes and bounds of the claim language is nebulous. Thus, as understood, Hurta in view of Official Notice, obviates the metes and bounds of Applicant's claim language.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Andrew Joseph Rudy/
Primary Examiner, Art Unit 3687